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Washington, D.C. 20505

Intelligence Community Staff

Executive Registry
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77-4614

16 AUG 1977


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File *Equip. Supplies*

MEMORANDUM FOR: Mr. John F. Blake  
Acting Deputy Director  
of Central Intelligence

FROM: John N. McMahon  
Acting Deputy to the DCI for  
the Intelligence Community

SUBJECT: Proposed Directive --  
"NFIP Procurement Policy"

1. Attached is the final draft of a proposed policy prepared at the direction of the SSC(I). Preliminary coordination has been effected with the Office of the Deputy Assistant to the President for National Security Affairs, the DoD, State, FBI, ERDA, and CIA.
2. Concurrence is requested by 22 August to conform with the suspense established by the SSC(I).

  
John N. McMahon

STATINTL

Attachment:  
As stated

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the Director of Central Intelligence

Washington, D. C. 20505

MEMORANDUM FOR:

FROM: Walter Elder  
Executive Secretary, NFIB

SUBJECT: DCI Directive # ,  
NFIP Procurement Policy

REFERENCE:

1. On 1977, the Director of Central Intelligence with the concurrence of the Deputy Assistant to the President for National Security Affairs, the Deputy Secretary of Defense, and the Under Secretary of State for Political Affairs, approved the subject Directive.

2. Copies of the approved version are circulated herewith for information and guidance.

Walter Elder

Attachment:  
DCI Directive # ,  
Effective 1977

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DCI DIRECTIVE

NFIP Procurement Policy

(effective , 1977)

1. Purpose. The purpose of this Directive is to establish policy and reporting procedures for the procurement of goods and services by NFIP entities.
2. Responsibilities
  - a. The DCI is responsible for controlling the budget preparation and resource allocation for the NFIP.
  - b. The Code of Federal Regulations in Titles 41 and 32 establishes Federal and Armed Services procurement policy pursuant to the Armed Services Procurement Act of 1949, as amended, and the Federal Property and Administrative Services Act of 1949, as amended.
3. Applicability. This Directive shall apply to all purchases and contracts made by NFIP components, units and activities, within or outside the U.S., for the procurement, or acquisition, from non-Federal sources of personal property and non-personal services (including ADP&E and construction) by such means as purchasing, renting, leasing (including real property), contracting or bartering. It includes all functions that pertain to the obtaining of supplies and

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services, including description (but not determination) of requirements, selection and solicitation of sources, and preparation and award of contracts for supplies or services which obligate appropriated funds.

4. Policy. The following Policy and Guidance for the procurement of NFIP goods and services reaffirms and extends the general and permanent rules for procurement published in the Federal Register and codified under Titles 32 and 41 of the Code of Federal Regulations.
  - a. All procurement, whether by formal advertising, or by negotiation, within the limitations of statutory responsibilities to protect sensitive intelligence sources and methods, shall be made on a competitive basis to the maximum practical extent.
  - b. When supplies or services are to be procured by negotiation, offers shall be solicited from the maximum number of qualified sources consistent with the nature and requirements of the supplies, or services, to be procured.
  - c. Negotiated procurements shall be on a competitive basis to the maximum practical extent. When a proposed procurement appears to be necessarily non-competitive, contracting officials are responsible not only for assuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent non-competitive procurements.

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This action should include both examination of the reasons for the procurement being non-competitive and steps to foster competitive conditions for subsequent procurements, including possible break-out of components for competitive procurement. Except for procurement of utilities, and utility services, and educational services from nonprofit institutions, contracts in excess of  shall not be negotiated on a non-competitive basis without prior review at a level higher than the initiating contract officer to assure compliance.

STAT

- d. Procurements, whether by formal advertising or by negotiation, generally shall be made by soliciting bids, proposals, or requests for quotations from the maximum number of qualified sources consistent with the nature and requirements of the supplies or services to be procured.
- e. Bidders lists for procurement shall be established, maintained, and utilized to insure access to, and use of, the broadest possible base of U.S. industrial firms.
- f. Purchases shall be made from, and contracts shall be awarded to, responsible prospective contractors only. Responsible prospective contractors shall meet the criteria set forth in Federal and Armed Services Procurement Regulations.

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5. Action Required

- a. Within the framework of applicable Armed Services and Federal Procurement Regulations, and consistent with statutory responsibility to protect sensitive intelligence sources and methods Agency Heads/Program Managers of NFI Programs shall:
  - ensure competitive involvement to the maximum extent possible in all procurement activities;
  - broaden the scope of procurement actions and increase the number of qualified sources from which to solicit and accept bids, proposals or quotations; and
  - review criteria for designating responsible prospective contractors to broaden the base of U.S. firms supporting the NFIP.
- b. In conjunction with the provision of recommended budgets to the DCI for preparation of the National Foreign Intelligence Program Budget, Agency Heads/Program Managers of NFI Programs shall report the results of actions taken in accordance with the foregoing guidance. Reports should provide data on the total number and dollar value of competitive procurement actions; the total number of firms involved, and the number of new firms included on lists of bidders during the prior fiscal year.

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STUDY AND RECOMMENDATIONS

for DCI Policy

on

NFIP PROCUREMENT

20 July 1977

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BACKGROUND: On a number of occasions during FY-78 Budget

Authorization hearings, the Senate Select Committee on Intelligence inquired of witnesses as to the extent of the industrial base involved in providing goods and services to the Intelligence Community. The Committee Report, issued on 19 May 1977 pointed out that "the Committee was unable to determine with any degree of certainty how broad the industrial base might be, or what steps are being undertaken by the Community to broaden this base." The Report continued by noting "Although the Committee recognizes there are certain limitations in this regard because of security requirements, the Community is urged to make every effort to ensure as broad a base of U.S. industrial firms as possible is involved in competing for intelligence goods and services. To this end the Committee requests the DCI promulgate a set of guidelines and criteria for the Community within 90 days and that the Committee be provided copies of such direction."

PROBLEM: Develop a set of IC Guidelines and criteria to ensure that, within the limitation of statutory responsibilities to protect sensitive intelligence sources and methods, as broad a base of U.S. industrial firms as possible is involved in competing for NFIP contracts for goods and services purchased by appropriated funds.

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RESPONSIBILITIES:

1. The PRC(I) issues program and resource guidelines, reviews and approves program and budget proposals; and provides an annual NFIP budget to the President [PRC(I) Directive #1].
2. The PRC(I) and the DCI are not responsible for the preparation and submission of individual department and agency programs and budgets; or funding direction, and operational management of the individual programs and activities [PRC(I) Directive #1].
3. Procurement policies and practices governing NFIP purchases derive from the provisions of the Armed Services Procurement Act of 1949, as amended, and the Federal Property and Administration Act of 1949, as amended.

DISCUSSION: (Attached as Tab A)

CONCLUSIONS AND RECOMMENDATIONS:

- Federal and Armed Services Procurement Regulations stemming from the Armed Services Procurement Act of 1949, as amended, and the Federal Property and Administrative Services Act of 1949, as amended, are comprehensive and detailed.

- These regulations, binding on all procurement activities of NFIP components, require competitive purchasing and contracting to the maximum extent practical from an industrial base large enough to assure that Government interests are served efficiently.
- Responsibility for implementing the provisions of Armed Services and Federal Procurement Regulations rests with the Heads of Agencies and individual contracting officers.
- PRC(I)/DCI Procurement responsibility and authority is limited to that exercised independently by individual members as Heads of Executive Departments and Agencies.
- Since appropriate policy has been promulgated to maximize the number of competitive procurements and to ensure meaningful competition for all purchases, broadening the industrial base supporting the NFIP and increasing the number of competitive purchases requires management attention by the Heads of component Departments and Agencies.
- It is appropriate for the DCI to:
  - a. Reiterate the thrust and direction of Armed Services and Federal Procurement Regulations with respect to competition in purchasing activities and the extent of industrial participation.

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- b. request that NFIP Program Managers take steps within the framework of these Regulations to continue the increases in competitive purchases and the number of participating firms noted in recent years.
- To initiate this action, it is recommended that the Draft PRC(I) Directive, Tab B, be promulgated.

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DISCUSSION:

As noted in PRC(I) #1, NFIP components are responsible to the Chiefs, or Heads, of the departments/agencies of which they are a part for budget execution. Hence there is no single NFIP management authority charged with overseeing procurement actions stemming from approved NFIP budgets.

Rules for these actions, established pursuant to the Armed Services Procurement Act of 1949, as amended, and the Federal Property and Administrative Services Act of 1949, are set forth in Titles 32 and 41 of the Code of Federal Regulations. Subchapter A, Chapter I, of Title 32 contains the Armed Services Procurement Regulations which are binding on all DoD procurement activities. Title 41--Public Contracts and Property Management--contains the general and permanent rules of the Federal Procurement Regulations (FPR) system which govern procurement activities of the departments and agencies of the Executive Branch, other than the DoD. As portions of both codifications of Procurement Regulations are prescribed, individual departments and agencies publish ancillary regulations deemed necessary to understand agency procurement policies (and procedures) which implement, supplement or deviate from the Code of Federal Regulations.

As a consequence, except for ADPE, procurement procedures and practices of all Government departments and agencies constitute a single coherent structure. Ambiguities concerning ADPE procurement in both acts, (as changed by the Brook Amendment

(PL 89-306) are yet to be fully resolved--the issue being the division of procurement responsibility between GSA, and other departments and agencies of the Executive Branch.

Armed Services and Federal Procurement Policy and procedures emphasize competition in all phases of purchasing and contracting to the maximum extent possible. In addition to limiting the circumstances permitting negotiation (contra-formal advertising) in procuring goods and services, the policy further mandates that every practical effort be made to encourage the fullest participation of qualified bidders in both formally advertised and negotiated procurement actions.

Responsibility for carrying out these policies rests with the Heads of departments and agencies and, through them, the individual contract officers who make decisions on the means of procurement (formal advertisement or negotiation); the qualification of, and the number of, qualified bidders to be solicited; and the designation of respondents as "responsible prospective contractors."

These officials are responsible for distribution of a sufficient number of bid/proposal invitations so as to elicit meaningful competition by qualified contractors. To effect this distribution, purchasing activities are required to establish "bidders mailing" lists to ensure access to adequate sources of supplies and services. Such lists contain the names of all eligible and qualified suppliers who have applied for inclusion in bidders' lists, or whom the purchasing activity considers

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capable of filling the bid requirements. When supplies or services are to be procured by non-competitive negotiation, "the contracting office is responsible not only for assuring that competitive procurement is not feasible, but also for acting whenever possible to avoid the need for subsequent non-competitive procurements. This action should include both examination of the reasons for the procurement being non-competitive and steps to foster competitive conditions for subsequent procurement, particularly as to . . . possible breakout of components for competitive procurement . . ."

STAT Except for certain utilities and utility services, and procurement of educational services from non-profit institutions, Armed Services Procurement Regulations prohibit negotiation of contracts in excess of  on a non-competitive basis without prior review at a level higher than the initiating contract officer.

Both Procurement regulations require that purchases be made from, and contracts awarded only to responsible prospective contractors--i.e., one which meets specified minimum and selected special standards. Qualifying criteria includes inter alia, adequate financial resources; ability to comply with delivery schedules and technical specifications; and a satisfactory record. Contracting officers are

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the officials responsible for determining whether a prospective contractor satisfies the applicable Regulation's standards for responsibility.

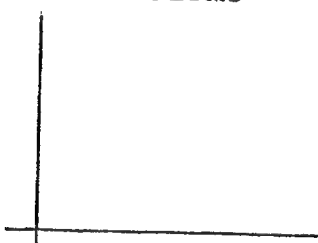
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In the five-year period ending in July 1977, NFIP expenditures for goods and services grew \_\_%, from \$\_\_\_ in 1973, to \$\_\_\_ in 1977.

Notwithstanding statutory responsibilities to protect sensitive sources and methods, which often dictate non-competitive purchases and contract negotiations, the number of firms involved in providing goods and services has also \_\_\_\_\_(incr/decr).

• Cost Category - Operating Expenses

No. of Firms

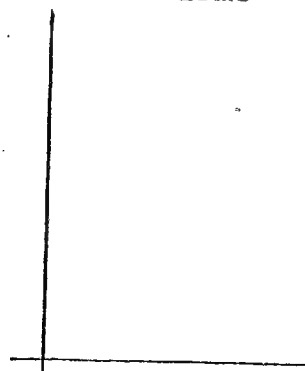


DoD - O&M  
CIA  
State Object Classes 22, 23  
ERDA 24, 25, 26, & 41 except  
FBI as related to R&D

Year

• Cost Category - Investment

No. of Firms



DOD - a/c Procurement  
Missile Procurement  
Other Procurement  
Mil Con  
CIA  
State Object Classes 31, 32  
ERDA  
FBI

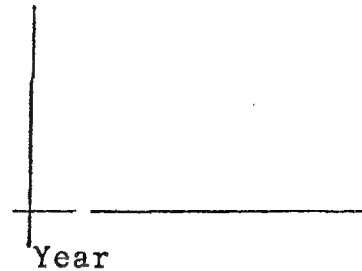
Year

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● Cost Category - R&D

No. of Firms

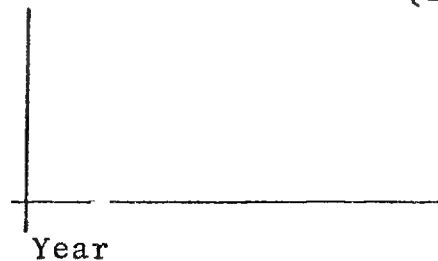


DoD - RDT&E  
 CIA  
 State R&D activity obligations  
 ERDA carried in Object Classes  
 FBI 22, 23, 24, 25, 26 & 41

Looked at another way, in 1973 \_\_\_\_ firms accounted for \_\_\_\_% of all contract \$'s. In 1977 both the number of firms and their % of total \$ had \_\_\_\_\_ to \$ \_\_\_\_ and \_\_\_\_% respectively.  
 (increased/decreased)

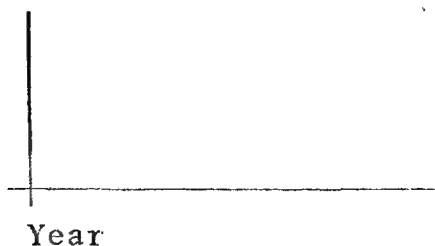
% of Total

No. of Firms  
 (in 10's, 100's, or 1,000's)



Since 1973 the % of procurements accomplished by negotiation has \_\_\_\_\_ (increased/decreased) by \_\_\_\_% (from \_\_\_\_ in 1972 to \_\_\_\_ in 1977). During the same period the number and % of non-competitively negotiated procurements has also \_\_\_\_\_.  
 (increased/decreased)

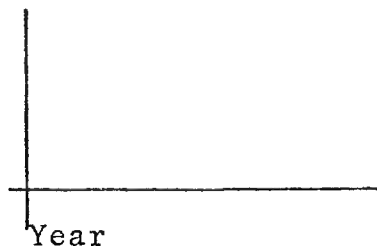
% Total



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The number of firms meeting the general and special criteria cited in Procurement Regulations to qualify as acceptable respondents in NFIP procurement activities has \_\_\_\_\_ (increased/decreased) since 1973, being \_\_\_\_\_ in 1975 and \_\_\_\_\_ in FY 77..

No. of Firms



It is clear that to increase the size of the industrial base supporting the NFIP, the number of "qualified" bidders/respondents must be increased. Actions to accomplish such an increase fall within the purview of Contracting Officers operating in consonance with Armed Services and Federal Procurement Regulations. Management responsibility for these actions lies with the Heads of the Departments and Agencies which constitute the NFIP. To increase the number of competitive procurements requires action by the same hierarchy.

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2	Mr Yale	8/18	my
3	Regist [redacted]		
4	A/DDC1		
5			
6			

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<input type="checkbox"/> APPROVAL	<input type="checkbox"/> DISPATCH	<input type="checkbox"/> RECOMMENDATION
<input type="checkbox"/> COMMENT	<input type="checkbox"/> FILE	<input type="checkbox"/> RETURN
<input type="checkbox"/> CONCURRENCE	<input type="checkbox"/> INFORMATION	<input type="checkbox"/> SIGNATURE

## Remarks:

For review & comment to  
Mr. Blake.

(Orig to D/OA for action - 8/18.)

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